

STATE OF NEW YORK: COUNTY OF SUFFOLK
SUFFOLK COUNTY BOARD OF ETHICS

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In the Matter of the Inquiry of

██████████ in capacity of current
Deputy County Attorney and future
██████████ of the ██████████

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STATE OF NEW YORK: COUNTY SUFFOLK
COUNTY BOARD OF ETHICS
Advisory Opinion 2018-11
June 20, 2018

NOTICE: THIS ADVISORY OPINION IS SUBJECT TO REVISION OR WITHDRAWAL

Applications requesting its modification, clarification, or withdrawal must be made in accordance with Suffolk County Board of Ethics rules. Unless an application for the revision or withdrawal of an advisory opinion is timely received, it shall become final. Nothing shall prohibit the Suffolk County Board of Ethics, on its own motion, from reconsidering, revising or withdrawing an advisory opinion at any time.

Summary: The Requestor is a current Deputy County Attorney and future Suffolk County ██████████. The Requestor has asked whether it would violate the Code of Ethics to enter into a consultant contract to continue to provide legal services to the County when she assumes her position with the ██████████. The Board finds that such an agreement would violate the Code.

Analyzed Laws and Rules: The Laws of Suffolk County; Suffolk County Administrative Code XXX, Advisory Opinions, § 77-2 (B), and Suffolk County Board of Ethics Advisory Opinions.

Procedural History: This Advisory Opinion Standing vote occurred on 6/20/2018 and the Board has determined on 6/20/2018 that the requested future conduct is an impermissible conflict of interest.

Opinion: The Requestor is a current Deputy County Attorney and incoming Suffolk County ██████████. The Requestor has asked whether it would violate the Code of Ethics to enter into a consultant contract to continue to provide legal services to the County when she assumes her position with the ██████████.

In considering this inquiry, the Board employed the following three-step analysis to determine whether a prohibited conflict of interest would exist:

- a) Does the requestor have standing to obtain an Advisory Opinion from the Suffolk County Board of Ethics;
- b) Is the requestor seeking advice on proposed future conduct;
- c) Whether an impermissible conflict of interest exists.

The Board determined that County employees have standing for this Advisory Opinion, deeming the Requestor a “public servant” and binding the Requestor to the Suffolk County Ethics Laws (*People of the State of New York v. Adolphus Ebuzome* 435 N.Y.S.2d 243, NYC COIB Advisory Opinion 2009-4).

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The Board finds under § 77-2(D)(3), that the Requestor, who is a public servant, did comply with the directives set forth in this subsection by asking the Board in a timely manner as required to determine if there was a conflict.

As to potential conflicts of interest, the law states in pertinent part at § 77-2, Prohibited Interests in Firms Doing Business With the County,

“§ 77-2. PROHIBITED INTERESTS IN FIRMS DOING BUSINESS WITH THE COUNTY.

B. No County employee shall have an ownership interest in a firm¹ which such employee knows is engaged in business dealings with the County”.

The Board has concluded that the proposed activity under the facts presented would violate § 77-2 as sole proprietorships fall into the definition of firm under the Code. Additionally, the Code does not permit waivers by the Board. Thus, the Board has determined this proposed consultancy to be impermissible conduct.

Conclusion: As set forth above, the Board finds the proposed future conduct is an impermissible conflict.

Pursuant to Suffolk County Board of Ethics Resolution 004/2013 passed on January 30, 2013, the requester shall have 15 business days from the time this Advisory Opinion has been rendered (excluding Saturday, Sunday, or a legal holiday) to file a request for reconsideration supported by new material facts submitted to the Board.

The forgoing is the opinion of the Board.

Dated: Great River, New York
6/20/2018

Linda A. Spahr - Vice Chair

¹ §77-1. *DEFINITIONS, FIRM*, “A sole proprietorship, joint venture, partnership, corporation or any other form of business enterprise”.